

Exiting the European Union Committee

Oral evidence: The progress of the UK's negotiations on EU withdrawal, HC 35

Wednesday 16 October 2019

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Members present: Hilary Benn (Chair); Joanna Cherry; Stephen Crabb; Jonathan Djanogly; Richard Graham; Wera Hobhouse; Andrea Jenkyns; Stephen Kinnock; Jeremy Lefroy; Mr Pat McFadden; Craig Mackinlay; Seema Malhotra; Stephen Timms; Sammy Wilson.

Questions 53 - 164

Witness

I: Rt Hon Stephen Barclay MP, Secretary of State for Exiting the European Union.

Examination of witness

Witness: Rt Hon Stephen Barclay MP.

Q53 **Chair:** Good morning. Secretary of State, you are most welcome. Thank you for making yourself available today. We thought you might be stuck in a tunnel somewhere, so we are very glad to see you before us this morning. As usual, as you will be very familiar with, we have a lot of ground to cover; answers as succinct as possible would be very helpful. We know that the negotiations are continuing, and I suspect you will probably say once or several times today that we will have to wait and see what happens, but can I ask you this question: will the House still meet on Saturday if by then a revised legal text covering the Northern Ireland protocol is not available for Members of Parliament?

Stephen Barclay: You will be aware of the comments that the Leader of the House made in the Chamber yesterday on that very issue. I would refer you to that, Chair. It will be for the Leader of the House tomorrow, through business, in the normal way, to set out what the House will be doing.



HOUSE OF COMMONS

Q54 **Chair:** If there is not an agreement for the House to consider, what would we be discussing on Saturday?

Stephen Barclay: This is why we will see what the progress is today and it will be for the Leader of the House, as is the norm, on Thursday to set out the order of business. That is what he alluded to yesterday and it will be for the Leader to set out.

Q55 **Chair:** Just so I am clear, what would be the point of the House meeting if there was not an agreement to discuss?

Stephen Barclay: You will be familiar with your own legislation and the timescale that it sets. That is why, as I say, it will be for the Leader of the House to set out whether we will be sitting or not, and it will obviously relate to the negotiations and the progress we are hoping to make today.

Q56 **Chair:** The legislation, as you will be well aware, is only relevant in those circumstances if there is an agreement that the Government can put to the House, to seek to get consent for it. If that consent is given then the requirement to write a letter does not apply, so if there is no agreement then I do not see how the Act is relevant as far as Saturday's business is concerned.

Stephen Barclay: The argument that was run yesterday by the Member for Broxtowe was the opposite of that, which was that there was no requirement in the legislation for the House to sit in any event on Saturday. What I am saying is that there are a number of issues that interplay with the legislation in your name. The normal course of business is not that Ministers set that out during the week. It is set out by the Leader of the House. That is what the Leader of the House said in the Chamber yesterday and that is the position.

Q57 **Chair:** Are you currently discussing a revised political declaration with the European Union?

Stephen Barclay: Yes, we are.

Q58 **Chair:** So you have submitted draft text?

Stephen Barclay: We have submitted draft text. As part of the negotiations, there are a number of aspects under discussion. As you will be aware, the position of the Government was set out by the Prime Minister in his letter to President Juncker on the 2nd of this month, and if there are changes to the backstop element of the Northern Ireland protocol, then it stands to reason there would be consequential changes to the political declaration that flow from that as a consequence.

Q59 **Chair:** Would you expect the text of that revised withdrawal declaration to be available at the same time as a revised legal text on the withdrawal agreement whenever it becomes available? Would we see them both together?



Stephen Barclay: Again, there are a number of areas of text that would be required, but we would be seeking to put as much information before the House as possible, in terms of the texts that would be available.

Q60 **Chair:** I am just trying to establish whether they would be available simultaneously, because presumably for there to be an agreement it would have to be an agreement on both the withdrawal agreement and the political declaration. Is that correct?

Stephen Barclay: It was not for the third meaningful vote, as you will recall, because the third meaningful vote was purely on the withdrawal agreement. It was not on the package, but you will be also aware, Chair, that the first and second meaningful votes were very much on the package.

In fact, you spoke very eloquently around your concerns in terms of the “blind Brexit” element of the political declaration, and yet when we got to the third vote it appeared that the political declaration was not the issue in the way that it was referred to in the first and second votes, because when we had the third meaningful vote, which was a standalone vote on the withdrawal agreement in isolation—the three components being issues that many had previously said they agreed with, in terms of citizens’ rights, Belfast/Good Friday agreement and the financial settlement—the House did not carry the withdrawal agreement in isolation. Again, part of this depends on the progress that we make in the talks, but also in terms of the interplay with your own legislation.

Q61 **Chair:** Can you confirm that if there is no agreement reached, which is approved by Parliament on Saturday, by the end of the day the Prime Minister will write the letter that he is required to send by the European Union (Withdrawal) (No. 2) Act?

Stephen Barclay: I can confirm, as the Prime Minister has repeatedly set out, that, first, the Government will comply with the law and, secondly, it will comply with undertakings given to the Court in respect of the law.

Q62 **Chair:** The undertaking given to the Court was that, subject to section 1(5), “In the event that neither of the conditions set out in sections 1(1) and 1(2) is satisfied, he will send a letter in the form set out in the schedule”. Can you confirm for the Committee, as the Secretary of State, that in those circumstances he will send the letter?

Stephen Barclay: I confirm that the Government will abide by what is set out in that letter.

Q63 **Chair:** That will involve sending a letter—is that right?

Stephen Barclay: You read it out and I refer back to that text.

Q64 **Chair:** It is helpful that you have confirmed that he will send that letter. Do you know why the Prime Minister spent so long saying that he would not?



HOUSE OF COMMONS

Stephen Barclay: We are committed to leaving, as you know, Mr Benn, on 31 October. The best way of doing that is with a deal to leave in a smooth and orderly way. That is why the team are, as we speak, involved in intensive negotiations to do that. There is a political will on both sides to do that, and that is the best way, in our view, of meeting the legislation requirements that you set out.

Q65 **Chair:** If the Prime Minister sends that letter—he has promised to do that and you have confirmed it—and if an extension to 31 January is offered he has promised to accept it, because that is what the Court in Scotland was told. Can you explain, then, how the UK is going to leave the EU on 31 October, because the two things do not square, do they?

Stephen Barclay: To quote the Speaker, we will cross that bridge in due course, which is the way the Speaker would usually put it. There are a number of variables that apply to what is a complex piece of legislation, but the first way of meeting the test that you have set out, Mr Benn, through your legislation, is to have a deal and the full effort of Government is focused on that. That is why I was in Luxembourg yesterday. It is why the technical team were in discussion past midnight UK time last night. It is why those discussions are ongoing as we speak. We are absolutely committed to securing a deal. That is in the interests of both sides.

I had 11 bilaterals with counterparts in Luxembourg yesterday. The consistent message in all those bilateral meetings was a desire on the EU side to have a deal, and that is absolutely what we are focused on delivering.

Q66 **Chair:** I understand that entirely. I am just trying to establish that, if no agreement is reached and the Prime Minister sends the letter, as he has promised to do, asks for the extension and the EU grants one to 31 January, then we cannot leave on 31 October, can we?

Stephen Barclay: With respect, Chair, you are getting several steps ahead, though that is absolutely your right. The key issue before us is whether we are able to reach an agreement. If we do so, that will satisfy the terms of your legislation, but these are issues for the House to determine in due course.

What is essential is we reach agreement with the EU, and then the question is whether that is deliverable within the UK Parliament. That is the test on which we are focused. The other issues, which quite understandably you seek to lead me towards, are issues for the future. The issue before us today, from a Government point of view, is how we deliver a deal and leave the EU in a smooth and orderly way, because the Prime Minister and the Government are absolutely committed to leaving on 31 October.

Q67 **Chair:** I can understand why you do not want to answer that question, as is your right, but perhaps we could move on. If an agreement is reached,



HOUSE OF COMMONS

how long do you think it would take to get the WAB and ratification through Parliament?

Stephen Barclay: Based on your legislation, Chair, it is very clear that this is a House that can move very quickly when it wishes to do so, as we also saw in the legislation from Yvette Cooper. As you well know, that is for the House to control in terms of programme motions and in terms of the passage of legislation, and to determine what level of scrutiny it deems relevant, but based on your own legislation, it is clear that this is a House that can move very quickly when it wishes to do so.

It is also the case that the House has shown a desire not to have a no-deal outcome and, therefore, if given an opportunity to vote on a deal and to pass a deal, it can move quickly. I am very aware that it is a significant piece of legislation in the withdrawal agreement Bill, but we are confident we can deliver that by 31 October.

Q68 **Chair:** The issues that appear to be at the heart of the current negotiations are customs and consent, and I want to take you back to the proposal that the Government originally published. It was briefed that was its best and final offer. Clearly, it was just its opening offer, but on the question of consent, the proposal the Government put forward said that if the Northern Ireland Assembly rejected the common area for agri-food and manufactured goods, then the idea would lapse and after a year arrangements would default "to existing rules". What existing rules?

Stephen Barclay: What we set out was the position in the letter of 2 October and, as you correctly refer to, Chair, what that did was have a principle of consent. It is worth reminding ourselves as to why that was there. That is there because the previous withdrawal agreement Bill was voted down three times, because of concerns raised, including by members of your Committee, around the fact that, under the Belfast/Good Friday agreement, the consent of both communities in Northern Ireland was required. There was a concern, not just within the DUP but in the wider Unionist community, that the backstop did not have that wider consent. There was also a concern in terms of laws applying in Northern Ireland over which people would not have a say.

Therefore, the package of proposals the Prime Minister has brought forward reflects, if one goes back to 2017, the Commission's own mandate to be creative and flexible on the border of Northern Ireland. It reflects that flexibility by addressing many of the challenges that I and others have heard in capitals around the flow of agricultural goods north-south. That is why there was the proposal on the regulatory zone, but it needed to be covered with the principle of consent in order to address why Parliament had rejected this three times previously.

Q69 **Chair:** Indeed, and I do understand that, Secretary of State, but you said in the explanatory note that, if that arrangement was rejected by the Assembly, then arrangements would default to existing rules, and I am asking you to explain to the Committee what existing rules, because at



HOUSE OF COMMONS

that point we would have left the European Union. What are the existing rules that arrangements would default to?

Stephen Barclay: The existing rules one would default to in that instance would be the same rules that would apply if we left in the event of no-deal.

Q70 **Chair:** That would involve customs checks, regulatory checks and the whole lot?

Stephen Barclay: In that instance. If consent was withdrawn, that would be the case. The question would arise as to how feasible would one expect that to be, and the question then is about, in the timescale, how much divergence one would have expected over that period of time. The likelihood is it would be extremely little. Would consent have been withdrawn when the European Parliament ratified after the UK Parliament and could, therefore, see whether the legislation had been supported in the passage of the Bill?

These are issues of live discussion, but what you draw me into is the mechanism through which consent would operate. The more important issue today, in terms of the package of discussion, is around the principle of consent, because it is the principle that needs to address why this legislation failed three times previously. Now it is for the negotiation, and you said at the outset, Chair, that there will be areas of deep sensitivity, which I hope colleagues can understand, given that these are live negotiations going on as we speak, in terms of the mechanism that would apply. The wider point in terms of today is that the legislation failed three times because of concerns around its democratic nature and, therefore, there needs to be consent as a principle to address that.

Q71 **Chair:** Again, I say to you that I understand that very clearly from the document you produced, but you have confirmed to us that, if that was to be the proposal finally agreed and if the Assembly declined to adopt those proposals, it would result in a hard border. That is correct, is it not?

Stephen Barclay: "If" and "if", and we are into the details of the mechanism. First, if there was no deal, then leaving with no deal would inevitably mean that these issues would crystallise immediately, so a starting point is to have an agreement that means that these issues are not crystallising on 1 November. The point more widely, which is recognised, is that what was of concern to the House previously was the lack of consent over the application of laws in Northern Ireland over which people did not have a say and the fact that one of the two communities was not in agreement. The question then is how you design a mechanism—

Q72 **Chair:** Again, I say to you that I understand that, but how can the Government propose something that, if the consent was not granted, would result in a hard border, when the Government have consistently said their policy is to keep the border as it is now? I do not understand.



HOUSE OF COMMONS

Stephen Barclay: We have been consistent. When you talk about a hard border, that would be coming, if that arose, on the EU side. We have been absolutely consistent in our commitment to no infrastructure at the border in Northern Ireland. In terms of the proposals we have set forward, if you look at the first item of the five set out by the Prime Minister, it reaffirms the Government's commitment to the Belfast/Good Friday agreement, and part of that commitment is that there will be no infrastructure put up on the border in Northern Ireland. That is the position that the previous Government took. That is the position the current Prime Minister has been very clear on.

Q73 **Chair:** I do not know whether it still is, but it was the Government's policy that customs checks could take place but away from the border, either at premises or other designated locations. Is that correct? That was the proposal.

Stephen Barclay: That was not just a position of the UK Government. At Strasbourg, the Commission also accepted the principle of alternative arrangements.

Craig Mackinlay: Mr Chair, might I raise a point of order?

Chair: What is that?

Craig Mackinlay: I am just wondering what we are doing here. You have had the floor now for 20 minutes. I doubt any other Member will have the floor for 20 minutes during this discussion this morning. I would welcome an opportunity for others to speak.

Chair: Yes, others will all—

Andrea Jenkyns: You, with respect, are rather biased, because you are pushing the Benn Act through, so I personally would like to see another Chair as well.

Q74 **Chair:** Your comments are noted. The final question I want to ask, before I bring other Members in, is, turning now to the Government's wish for a Canada-style free trade agreement, can you confirm, if that was what was to transpire, that it would involve customs checks, regulatory checks and rules-of-origin checks?

Stephen Barclay: It is absolutely the case that we are committed to Northern Ireland coming out of the EU customs union, and we may get into questions around the political declaration and our commitment to a best-in-class free trade agreement. We are also committed, as the Prime Minister set out in his letter, to minimising any checks that are required. You will be very well aware that, particularly on manufactured goods, for example, it is only a very low percentage of goods that are checked in any event. You will be aware that we start from a position of regulatory alignment, based on over 40 years of membership of the EU. Again, we start to stray into questions of detail, but it is a point of law that if you



HOUSE OF COMMONS

have two customs unions, one needs to balance how the trade flows between those two.

Chair: That was very helpful. Thank you very much.

- Q75 **Andrea Jenkyns:** As someone who has been a great critic of the Government's approach to Brexit, I have to say that since Prime Minister Boris Johnson has taken the role, he has done a fantastic job in his approach to Brexit and ensuring that the referendum result is respected. First, how would you say the approach to negotiations has changed, from the previous Prime Minister to now? How has your role changed and how has the approach changed?

Stephen Barclay: My role has changed, in so far as, previously, I was much more focused on the preparation for no deal, and that is now led by the Chancellor of the Duchy of Lancaster, who I know has given evidence to the Committee on that issue. My focus has been on the negotiations. Within Government there has been a change. I would refer you back to the letter sent by the Prime Minister to President Tusk in the summer, which set out the changes that the Prime Minister was seeking to make to the deal, but as someone who has served both Prime Ministers, I would say both have shown an absolute commitment to securing a deal, and that is very much what is informing the current Prime Minister's approach.

- Q76 **Andrea Jenkyns:** Thank you, Minister. Finally, do you believe the Benn Act has weakened the negotiating hand of the Government and our country?

Stephen Barclay: I think it has been unhelpful to the negotiations, absolutely, but what is recognised, both in the EU and the UK, is the time is now for a deal. Certainly reflected in the discussions I had yesterday, there is a desire to get a deal and a recognition that it is in both sides' interests to do so. The teams are working extremely hard in order to take that forward.

- Q77 **Stephen Timms:** Can I ask you a little bit about the consequences if there is not a deal and if the UK leaves the EU without a deal, which is clearly, as we speak, still on the cards? Operation Yellowhammer warned that food and medicine shortages would result from long delays at Dover, if there were long delays at Dover. This morning the National Audit Office has told us that the Government currently expect cross-Channel flows to be between 45% and 65% of current levels on day 1 of a no-deal Brexit because of two factors; we have taken evidence about these in recent weeks. One is the lack of trader readiness, and that is combined with a limited space in French ports to hold unready lorries. What would a reduction of cross-Channel flows by at least a third—35% to 65% is the current Government estimate—mean in practice in the UK?

Stephen Barclay: I saw that NAO report as well. What was heartening for the Government within it was the recognition that significant improvements have been made and the Government have done a huge



amount of work on this. That is reflected, for example, in the 900 or so Border Force officers who have been recruited, the £108 million of funding that has been allocated, the public awareness campaign, the automatic allocation of EORI numbers to businesses, the 1.5 million letters that have gone out and so forth. I am sure the Chancellor of the Duchy of Lancaster could give evidence of a whole range of things that are being done.

To give you perhaps an illustration, because I am obviously much more focused on the negotiations than Yellowhammer, if I go back to when I was involved in this, I remember a report back in November that talked about a 10% increase in food prices. That was how it was always portrayed in Parliament. Actually, the figure was 5% to 10%. It is 30% of our food that is imported from the EU while 50% is sourced in the UK and 20% in the rest of the world. Of that 30%, it was based on a border assumption that was far worse than the one, Mr Timms, that you have just quoted. It assumed a currency devaluation, which is at odds with what most people would now envisage.

My point is that you often get these figures quoted that are, first, not reflective of the circumstances even reflected in your own question in terms of the border flow, and that do not reflect the work that the sub-committee, XO, chaired by CDL, has done, meeting five times a week throughout the summer.

That does not mean that we are in any way complacent. There will be challenges and disruption. I was at the port of Rotterdam last week, discussing with the port the massive amount of work that has been done. Again, parliamentary-wise, we tend to talk about Calais a lot, whereas there is a huge amount of goods coming in through the other ports, the container ports in particular. We are very aware that here are challenges. The NAO themselves recognise a huge amount of work has been done and that work is very much ongoing.

Q78 Stephen Timms: The NAO does recognise the work that has been done. Over the summer, we were told that the expectation was that trade flows would be 40% to 60% cross-Channel and now the Government assumption, we are told by the NAO, projects them to be 45% to 65%, so that is clearly an improvement, but it is still a very dramatic reduction in cross-Channel flows. In a speech in Madrid last month, you made the point, absolutely rightly, that if indeed there were two and a half days of delays at Calais, the impact of that would not solely be felt within the UK. You were right to say that, but what do you think the impact would be in the UK if there were two and a half days of delay at Calais?

Stephen Barclay: I would say two things. First, the message I got from businesses and leaders in Spain was the same as in Poland and elsewhere, which is they do not believe that it will be two and a half days and they are set to work with us to ensure that we have as smooth a flow of goods as possible. To give you an example from Poland, 84,000 jobs in



HOUSE OF COMMONS

Poland are in the poultry industry. If you have a delay in terms of fresh poultry, that is hugely significant in terms of their flows in.

The point I was making in Madrid is that there is a massive shared desire to get a deal. That is what we are focusing on today, and that is shared by EU capitals and by the Commission. It is a win-win for us to have a deal and that is what we are working on, but if there is the situation of no deal, then it will be in the mutual interests of both sides to mitigate that as best as possible. You refer to Madrid. Madrid was really just giving some colour to that.

- Q79 **Stephen Timms:** Operation Yellowhammer said that delays of that order would lead to shortages of some fresh foods and medicines in the UK. That is the case, is it not? That is the Government's expectation if we have delays of the kind of order you were talking about in Madrid.

Stephen Barclay: That is why I am saying that I do not think that there will not be those delays. Of course, if there is a delay to goods coming in, taking my example of fresh poultry, that is damaging. Is there a will on the EU side to work with us? Yes, that is partly why I was in places like the port of Rotterdam discussing that, and we had those discussions with EU members. Ultimately, this is why both sides see the benefit of reaching a deal, and the challenge in the next 24 or 48 hours is how we work together to achieve that.

- Q80 **Stephen Timms:** The National Audit Office is saying the current Government expectation is that flows across the Channel, including Rotterdam and all of them, would be 45% to 65% of current levels just after a no-deal Brexit. That does mean very long delays at Dover and Calais, does it not?

Stephen Barclay: As I have sought to show, Mr Timms, a huge amount of work is going on to mitigate those delays. We can go through the steps that XO has taken, such as the £31 million that it has allocated to boost customs agents to increase automation, postponing of the accounting of import VAT and re-accession to the common transit convention.

- Q81 **Stephen Timms:** The benefits from all that seem very modest so far.

Stephen Barclay: There is a work-stream in Government. The point is that it is in both sides' interests to avoid that if it arises, but the far better way of mitigating it is through a deal, and we are absolutely committed to working with a deal. If one looks at comments made by EU leaders in recent days, it is very clear that there is a shared desire in EU capitals, in the Commission and within the UK to reach a deal.

- Q82 **Stephen Timms:** There is just one other aspect, if I may, Chair. If we did leave the EU without a deal, Revenue and Customs told us last week that the administrative burden of completing customs declarations for all EU trade in goods movements on both sides of the EU border would be £15 billion per year. We can all remember when the Conservative party rightly used to be very sensitive to extra burdens on business counted in



the millions. Here we have a forecast of billions in additional red-tape burdens. Would burdens on that scale not be catastrophic for many UK businesses?

Stephen Barclay: As a former Treasury Minister, Mr Timms, I know you, as I do, listen very closely to the wishes of the business community. Whether it is the figure you quote or a different figure, the best way of addressing this is through a deal. Whether it is the letter in the *Telegraph* this morning from business leaders or whether it is the numerous conversations I and you, I am sure, have with business leaders up and down the country, the very clear message one gets from business is they want to see a deal.

If we are able to bring a deal back to the House, the key question for all Members of Parliament is whether it is in the national interest to support a deal to ensure the flow of goods is maintained, to deliver an implementation period and to safeguard the aspects of the withdrawal agreement I am sure you would agree with, like citizens' rights. That will be the question that Members of the House need to address.

Q83 **Stephen Timms:** If we did have a no-deal Brexit and there was that kind of additional burden, would the Government take steps to mitigate the billions in extra red-tape burdens?

Stephen Barclay: My whole focus is on trying to secure a deal. That is what I worked on throughout the summer. It is what I am working on now. The Prime Minister, David Frost and the entirety of this Government are focused on getting a deal. I have said when I have been before this Committee previously, sometimes slightly to the annoyance of one or two of my colleagues, that a no-deal is disruptive and I have always supported a deal. We can get into detail as to how disruptive a no-deal is, but the reality is a deal is a far better outcome for the United Kingdom. The question that will come to Members of Parliament who to date have not supported a deal is whether they are now willing to do so, because that is the way we respond to the concerns of business, but also the way we move the country forward.

Q84 **Stephen Crabb:** Good morning. When Michael Gove sat there a few weeks ago, he was asked whether, if there was such a scenario in which Theresa May's deal came back to the House of Commons, he would vote for it; like a shot, he said he would. Would you?

Stephen Barclay: I read the transcript last night. He said, "Yes". I voted for it three times, so yes.

Q85 **Stephen Crabb:** Okay. What makes you think that the deal that is currently being negotiated is substantially better than the deal that was previously negotiated?

Stephen Barclay: First and foremost, because the deal will be deliverable and the key issue with the previous deal was the House of Commons rejected it three times. There were, in my discussions with the



HOUSE OF COMMONS

EU, two central issues. The first is whether we can agree a deal that addresses the mutual concerns and equities of the two sides, but then the second question they ask me is, "Will it be deliverable in the House of Commons?" which is a perfectly legitimate question.

The key issue that came out of the debates—I know, Mr Crabb, you spoke in many of them—was the concerns around the backstop, for reasons we have already touched on. In terms of the letter that the Prime Minister sent to President Tusk in the summer, that was particularly focused in on that issue, distinct from the Northern Ireland protocol as a whole. For example, the common travel area, the single electricity market and north-south co-operation within the protocol are distinct from the backstop elements.

We have addressed that, but also what the Prime Minister has done is be very clear in terms of the future relationship that he is seeking, in terms of a best-in-class free trade agreement, and that, therefore, gives colleagues across the House the opportunity to move forward.

Q86 Stephen Crabb: If you feel that the current direction of negotiations is leading to a better deal than the one that was previously negotiated by Theresa May, what do you think it was that made members of the ERG group, who were briefed in Downing Street last night, so angry?

Stephen Barclay: I was travelling back from Luxembourg last night in order to attend today's Committee. I have always, Chair, tried to be a regular attender of your Committee.

Chair: You are, thank you.

Stephen Barclay: I was not in for that meeting. I cannot, therefore, given that I was not there, Mr Crabb, speculate on what was said or was not said.

Q87 Stephen Crabb: Is it fair to say that we are broadly moving in the direction of a Northern Ireland-specific backstop as opposed to a UK-wide backstop, which was the big concern and stumbling block in the previous agreement?

Stephen Barclay: Again, one does not want to get into the detail of negotiations that are ongoing, but the fifth pillar of the Prime Minister's letter to President Juncker on 2 October was making very clear the importance of the United Kingdom leaving, as he has repeatedly said in the Chamber, whole and entire. That is absolutely fundamental to the Government's approach and that is a point we made very clear.

Q88 Stephen Crabb: Within that characteristic that you describe of leaving entirely and as one, do you accept that it is now the Government's position that for Brexit to be meaningful for the UK, Northern Ireland will inevitably be treated slightly differently?



Stephen Barclay: What I have made clear is that the sovereignty of the United Kingdom needs to be respected. The Prime Minister has been very clear in terms of the importance of that vis-à-vis the customs union and, again, I would refer back to the comments that he has made on that point.

Q89 **Stephen Crabb:** Finally, we wish you well in the days ahead. If it does look like we can get a deal in the coming days and it looks like we will need a bit more time to do the legalese around it, would you be comfortable with a short technical extension to get it done?

Stephen Barclay: No, it is important that we leave on 31 October. The House has demonstrated through the Benn legislation and through the Cooper legislation its ability to legislate in a quick manner. Many of these issues have been discussed. One thing that most people do not feel is that the House of Commons has not discussed Brexit or the withdrawal agreement on enough occasions. The issues are very well known to colleagues. The important thing, particularly, as I say, when I listen to the voices of business and to many constituents and citizens, is that they want to get Brexit done, they want the country to move forward and they want to do so in a smooth and orderly way. That is the opportunity we have.

Q90 **Craig Mackinlay:** I would like to concentrate on the political declaration and what is happening on that at the moment. One of the reasons that many of us were very concerned about Theresa May's withdrawal agreement was some looseness of words, but the seeming direction of travel to us seemed to be perpetual vassalage, building upon the customs territory, high alignment on all manner of things and, of course, that very woolly phrase, "best endeavours", which can mean different things to different people.

I was very pleased to see, in one of the final paragraphs of the Prime Minister's letter of 2 October to President Juncker, "Together with finalisation of the necessary changes to the political declaration reflecting the goal of the comprehensive free trade agreement". That was very welcome and it was the first time we had really seen a clear statement from the Government that that was the direction of travel that we would like to see. Putting aside the issues on the island of Ireland, that is very similar to what Donald Tusk offered in March 2018. How has progress from the UK Government side been perceived to try to flesh out that high-level free trade agreement? How is that being perceived by the EU side at the moment?

Stephen Barclay: There is a shared desire to get on to the future relationship. That is something that both sides recognise is the best way forward. What is often lost in this process is the fact that we have been debating for a very long time now the winding-down provisions and not the future trade agreement. There is an interplay between that agreement and the other trade deals that the Department for International Trade and Liz Truss will be looking to secure. There is a



HOUSE OF COMMONS

shared desire to get on to the future economic partnership and to have those discussions. Again, that is why the time is now for us to agree what is, in essence, the winding-down provisions to enable us to get on to those trade talks.

Q91 Craig Mackinlay: I have always thought one of the Brexit dividends is the ability to make new free trade deals around the world. I believe that is the Prime Minister's ambition as well. The Chancellor of the Duchy of Lancaster and yourself have said that if Theresa May's withdrawal agreement was back, you would agree to that. Given that it would be a distinctive hindrance to those international trade deals, because we would have very little to offer in terms of access to our markets and differences in regulatory alignments, do you still stand by that? Would you honestly still vote for Theresa May's withdrawal agreement, given that I know you to be an international free-trader and know the benefits of global free trade for the general direction of the health of nations? I am concerned that there is anyone left in the Government who is still an adherent to that old deal.

Stephen Barclay: Without wanting to rerun previous debates that we have had in the Committee, what was said to me at the time was, on the one hand, that the political declaration did not have legal force and therefore was a worthless set of commitments, yet, at the same time, it was binding on issues like security, co-operation or its constraint in terms of trade deals. Notwithstanding the linkage between article 184 and the political declaration, there is an inherent contradiction within that position, but it is not helpful for us to go back over old ground.

The key issue is the Prime Minister has been very clear in terms of what future economic partnership he is seeking. It is a best-in-class free trade agreement. What do we mean by that? It means that it is not just about applying CETA, but it is looking at what precedent there is from the EU in terms of trade deals they have done around the world, and it is seeking to build on that.

It is also signalling our desire for a close security relationship as well, as part of being, as the Prime Minister set out in his conference speech, a European country with European values that geographically remains extremely close to Europe, that does a very sizeable proportion of its trade with Europe and wants to get on to that positive future relationship. The issue before us is the winding-down provision, before we get on to the debate on the future economic partnership, on which I am sure the House will wish to have a view in due course.

Q92 Craig Mackinlay: Just finally, the Government are exuding positivity about a new political declaration. Are you sensing that the other side now finally get it as the destination that they have offered in the past? Do they seem to be amenable to what we are suggesting to them on the political declaration, whether it is enforceable or not, which is of course another matter?



Stephen Barclay: As you would expect me to say, Mr Mackinlay, it is a negotiation and both sides have equities within that. We have not gone into the debate, for example, on areas like level playing field and how that interplays, but the EU will have legitimate areas of interest that they will want to protect, as is quite proper. The point that I was signalling is that, as the Prime Minister has set out, it is our commitment to have a best-in-class free trade agreement, and a big part of that is the global approach that we want to have in terms of other trade deals with other countries.

Q93 **Mr McFadden:** Thanks for coming. I want to ask you a few questions about these level playing field provisions, if I may. In the withdrawal agreement as it stands, at annex 4, part 3, there is what is called a non-regression of labour and social standards clause. It says, "The Union and the United Kingdom shall ensure that the level of protection provided for by law, regulations and practices is not reduced below the level provided by the common standards applicable within the Union and the United Kingdom at the end of the transition period in the area of labour and social protection, and as regards fundamental rights at work, occupational health and safety, fair working conditions", and so on. There is a similar clause on the previous page relating to environmental standards. Yet in the memo issued by the Government on 2 October, at paragraph 4 it says, "There is therefore no need for the extensive level playing field arrangements envisaged in the previous protocol".

Can you explain to us why the Government now wants to depart from those previous commitments in the withdrawal agreement to level playing field clauses on labour, social standards, environmental protections and so on?

Stephen Barclay: You raise an important issue. The key principle I would start with when looking at level playing field is about what the outcome is that one is seeking, and there are different ways of achieving that. If you look at the Queen's Speech, the Prime Minister has set out our desire to be best in class on environmental standards, as well as his very strong wish to have global leadership on that and to have a number of areas where we have a very strong regulatory standard on the environment.

If you look historically within the UK, the UK in a whole range of areas has been ahead of Europe. The two obvious ones would be on maternity rights and parental leave. It was the former Chancellor in a speech to *Bild* who talked about Singapore-on-Thames, but there is not any desire to have a deregulatory approach. The question is to what extent you have sovereign control of your regulation and what the interplay is between your regulatory commitments and your market access. That has long been a feature of trade deals, and I am sure that will be part of the discussion with the EU moving forward.

Q94 **Mr McFadden:** The fact is, legally speaking, the Government's intention is no longer to have the commitments that I read out from annex 4 in the



HOUSE OF COMMONS

future. That is just a factual position.

Stephen Barclay: It is part of the negotiation to discuss, but I would refer you back to a slide that Taskforce 50 themselves produced, which showed what they had, which was basically a staircase, which was the linkage on their slide between market access and regulatory commitments. That is a feature if you look at the commitments within CETA. That is also the case in terms of the interplay between access and regulatory commitments. That is part of a trade deal.

The more fundamental point is the Government are not looking to deregulate. The Queen's Speech gives evidence of that approach, but it is the case as part of a best-in-class free trade agreement that that gives a clarity, whereas the previous political declaration was wider in scope and, therefore, that is part of the discussion that we can have.

- Q95 **Mr McFadden:** Let me turn to the similar paragraph in the political declaration. You have confirmed, as far as the withdrawal agreement goes, you want to replace these paragraphs that I had been referring to and not to have those non-regression commitments. Looking forward to the future relationship, the political declaration as of the moment says at paragraph 79, "The future relationship must ensure fair and open competition. Provisions to ensure this should cover state aid, competition, social and employment standards, environmental standards, climate change, and relevant tax matters, building on the level playing field arrangements", which we have just discussed and that will no longer apply, "provided for in the withdrawal agreement". Again, is that text that, in an amended future political declaration, the Government are now seeking to change or to remove?

Stephen Barclay: You mentioned state aid, for example. Let me give you an example. The UK currently spends 0.4% of GDP on state aid. The EU average is 0.8%. Germany spends 1.3%. It is perfectly in order, as part of the negotiation, for there to be a discussion as to what the balanced approach is on areas such as a level playing field. That is a part of the negotiation. Again, you would not expect me today, as we are in the middle of a negotiation, to get into the detail of that negotiation, but where the balance lies and how that is assessed is part of a normal negotiation in the course of these things.

If you look at our starting point, the UK is not a country that has abused state aid, and that is reflected by the position. The idea that we would use state aid to advantage our businesses at the expense of those in Europe is belied by what the current data shows.

- Q96 **Mr McFadden:** What I am trying to establish by way of text is whether the Government are seeking to change the provision that Theresa May's Government had signed up to under the paragraph I read out. Are you seeking to change that commitment?

Stephen Barclay: As I say, I am not going to get into the detail of the negotiation. What I am saying is what matters on commitments around



level playing field is the balance of that and the outcome that is being sought. There are different ways of achieving it.

- Q97 **Mr McFadden:** Can I just try one final question with you? In terms of the paragraphs that I have read out from the withdrawal agreement and the political declaration about the future, if there is new text on those things that cover level playing field provisions on social standards, environmental standards, labour standards and so on, will Parliament see that new text before being asked to vote on any revised deal?

Stephen Barclay: Again, that refers to the discussion we had at the start, but I am very alive, Mr McFadden, not least from the talks we had with Labour Front Benchers, to the interest that there is across the House from Members around the commitments. Without going into the detail of negotiations this morning, the Government, as reflected in the Queen's Speech, is not a Government looking to deregulate their environmental standards or in other areas, but it is right, as part of giving clarity under the best-in-class free trade agreement, that the text reflects that, and that is a point of negotiation that we are discussing.

- Q98 **Mr McFadden:** If there is no desire to depart from the level playing field, why not sign up to it? This does matter a great deal to Labour MPs, and possibly to MPs from other parties; it certainly matters a great deal to Labour MPs. You understand the concerns that would arise on the Labour Benches if the Government resiled from these paragraphs that I have read out?

Stephen Barclay: Yes, I hear the point.

- Q99 **Mr Djanogly:** Just picking up on Pat McFadden's points, just for clarification really, under the new political declaration, did I pick up that we would be moving to a Canada-type approach when it comes to negotiating the new FTA? Did you actually say that?

Stephen Barclay: No, what I said is that the Prime Minister has sought changes to the backstop in the withdrawal agreement specifically due to the fact that the previous agreement failed three times and that was central to that issue. That will have consequential changes within the political declaration, as a result of that. Secondly, in seeking the best-in-class free trade agreement, that likewise enables a discussion as part of the negotiation as to how that is best reflected in the political declaration.

- Q100 **Mr Djanogly:** Let us say, for instance, a Canada-style deal is put into the political declaration or, for this purpose, any other particular formula, would that actually be binding, or would it just be a declaration pointing a way that could, for instance, be changeable by a future Administration?

Stephen Barclay: On the one hand, I am told that the political declaration does not have force. On the other, I am told that it is binding and it is going to constrain.

- Q101 **Mr Djanogly:** I am asking you.



Stephen Barclay: There is a good-faith commitment and a linkage through article 5 in terms of good faith and article 184 in terms of the interplay between the withdrawal agreement and the political declaration, so they do sit as a package. The point is within that there will need to be a negotiation and, as Mr McFadden's question alluded to, within that there are a number of other factors that are dealt with in the round. These are not dealt with in silos.

You asked the first question on Canada-plus. When I said it was not about strictly putting in Canada-plus, it was about best in class, then you say, "Assuming we put in Canada-plus." The point is it will be for the negotiation. As part of that, for example, I will want to speak very closely with the devolved Administrations, which will have a view. The House as a whole will have a view. It depends whether it is the same House of Commons or, more likely, after a general election, a different House of Commons and how that will wish to express its view.

The point is this will be the future negotiation that is still to come. The challenge is how we get on to that and the challenge, therefore, in the coming days is whether we can agree a withdrawal agreement and get on to that future relationship, because if we cannot the issue of the political declaration becomes academic.

Q102 **Mr Djanogly:** I understand that, Secretary of State, and that is what I was trying to get on to, because a lot of the Labour MPs' questions this morning have been based around, "Why is this stuff not in there?" but would it not be true that, if this deal was passed with the political declaration, the Labour Party could then stand in a general election and say, "If we are elected we are going to put in all the stuff that Pat McFadden was just asking for"?

Stephen Barclay: Given that the negotiation is to carry on running until December 2020, and I think most of us can agree there will be a general election a long way before December 2020, clearly a future Government, notwithstanding any constraints that flow from the withdrawal agreement through into the package, because that is an international treaty, will then have discretion and certainly can go further in their commitments by all means.

Q103 **Mr Djanogly:** The point I am making is that Labour MPs are not losing anything by voting for the deal, because they could ask it for a later date.

Stephen Barclay: Absolutely. A Labour Government can make further commitments, and I have alluded to areas where previous UK Parliaments have, indeed, made further commitments, such as on maternity rights and where we have legislated to be on greenhouse gas by 2050. Again, that is a decision the UK Parliament has taken.

Q104 **Mr Djanogly:** Slightly changing the topic, what are the risks to electricity consumers in Northern Ireland and Ireland if the single electricity market cannot be maintained?



HOUSE OF COMMONS

Stephen Barclay: The single electricity market and the benefits thereof were specifically mentioned in the letter the Prime Minister sent. That is part of the Northern Ireland protocol and the intention is for that to continue.

Q105 **Mr Djanogly:** So there would be significant risks if it did not continue?

Stephen Barclay: You are asking if there would be significant risk. If you are then pivoting away from a deal to no deal, again, this is more the Chancellor of the Duchy of Lancaster's remit. The issue would be more around the legal underpinning of those contracts rather than the day 1 supply, not least given Great Britain supplies significant amounts of gas to Ireland as part of that interplay.

On the point around connectivity and the connectors as well, probably the best example, which is less an Ireland one but is more from an EU perspective, is the Beast from the East. The issue with the Beast from the East was it hit Europe at the start of the week and it hit the UK in the second half of the week. It is in both sides' interests to have the security of supply, but also the lowering of cost from the connectivity that there is, and that is why there is a desire on both sides on things like the single electricity market, which is, by its essence, very interconnected, to ensure that they continue.

Q106 **Mr Djanogly:** Are you saying that contingency plans, if there was not to be an agreement, are not your area?

Stephen Barclay: When I was doing it, from memory, in June I met with the chief exec of National Grid, the chief exec of Centrica and the chief exec of Energy UK, all of whom were very close to this issue and all of whom were confident that we would be well placed on this matter, but I am very happy to refer it to CDL for the latest position.

Q107 **Mr Djanogly:** Why did the explanatory note to the UK proposals for an amended protocol specify that the single electricity market should be subject to the consent procedure?

Stephen Barclay: Because it would involve the ECJ having a continued involvement in terms of the SEM and, therefore, the discussion at the time was in that context regarding the reach of the ECJ.

Q108 **Mr Djanogly:** You do not believe that that is going to overly complicate the two countries of Ireland having a working electricity system?

Stephen Barclay: As I say, it is an issue that CDL is leading on now, rather than myself. It is not a feature of the negotiations, but in terms of both Northern Ireland and from the Irish Government, there is a common desire to see the arrangements continue. There is a recognition that that is in the interest of consumers on both sides, in terms of continuity of supply and price. As I say, I am very happy to get an update for you on it.

Q109 **Seema Malhotra:** Secretary of State, the EU has trade agreements with



HOUSE OF COMMONS

around 70 partners, as I know you will be aware, and those trade agreements account for about 14% to 15% of UK trade in goods. These range from larger economies, such as Japan and South Korea, to smaller economies. These EU agreements are expected to no longer apply to the UK at the end of the transition period or they would stop applying on day 1 if we were to leave with no deal.

My understanding is the Government have intended to see some roll-over of these, and there has been some progress, which is on the Government website, on agreements with Chile, Iceland, Norway, Lebanon, the Palestinian Authority and South Korea, but there are 23 countries, approximately, with which there are agreements that still need to be rolled over. That includes Japan and Turkey. There seems to be some guidance that the Government are producing. It is not in the Government's intention to transition all the agreements in their entirety. Could you explain whether that is because they are not considered necessary or because it is not seen as possible?

Stephen Barclay: I would draw a distinction between continuity deals by trade and others. Again, this is something CDL is leading on within the sphere of no deal, but when I was looking at it, the two distinctions I would draw were, first, the distinction between the number of deals and the percentage of value. The top five trading partners represented 74% of the current trade, so there is a distinction with just the numbers. You mentioned 23, but one of the things to look at, if we are looking at trade, is the percentage value affixed to those deals, as opposed to just the number of them.

Q110 **Seema Malhotra:** Value for nation as a whole, as opposed to individual sectors?

Stephen Barclay: Yes. Are you talking purely about trading or are you talking about continuity of EU agreements more widely?

Q111 **Seema Malhotra:** I am talking about the impact for the UK, so primarily UK trade.

Stephen Barclay: You mean purely on the trade deals? As I say, that will be something CDL would need to update you on, but the key ones have been done, such as Switzerland, which represents alone a fifth of the economic value. The key ones are done. In terms of where the tail is of those trade deals, that is something CDL would need to update the Committee on.

Q112 **Seema Malhotra:** In relation to Japan, Canada and Turkey, there are delays in reaching agreement?

Stephen Barclay: As I say, I have been completely focused, as I hope you would appreciate, on the negotiations and not on the trade continuity deals as part of the no-deal planning. There is a meeting that meets Fridays each week, chaired by CDL—the Cabinet committee, XO—that has these items as part of its standing items. Because I have been travelling



HOUSE OF COMMONS

quite a bit, I have not been able to attend that, so other Ministers from the Department attend.

In terms of where we are on that, Switzerland was, from memory, 20% of the trade value. That was done some time ago. I think the majority have been done. We have had additional time since March. You and I had a debate on this at a previous Select Committee, from memory, and at that time the percentage was lower. We used the time since 29 March in order to progress them further.

Q113 Seema Malhotra: Would you be aware of what is causing the delay with Japan, Canada and Turkey?

Stephen Barclay: From my recollection, Canada had been dealt with, but, as I say, I have been focused on other issues. It will be for CDL to update the Committee on that.

Q114 Seema Malhotra: Would you say it is the Government's intention to try to try to roll over with each country all aspects of the EU's agreements under which UK businesses are currently trading?

Stephen Barclay: It is the Government's intention to get a deal and that will give us the implementation period. Through the implementation period, we will then have the roll-over of these trade deals. The question to which you are referring is in the event of no deal, and as part of our preparation for no deal, continuity of agreements has been put in place. That has been done, as I say, prioritising the biggest trade deals by value, Canada being first and foremost within those. It is a very legitimate point you raise as to the extent to which there is a tail of any outstanding, but I know we have used the time since March in order to address that.

Q115 Seema Malhotra: If I can just clarify one point on Canada, what was Canada's approach to rolling over its EU trade agreement for the UK if there is no deal? In the event of no deal, what was Canada's position?

Stephen Barclay: Canada was the one on which there had been most delay when I was looking at it before. Switzerland, as I say, was the one that dealt with 20%, and we have dealt with Switzerland.

Q116 Seema Malhotra: Were there discussions with Canada, because did Canada not suggest that they would not be rolling over their EU trade agreement for the UK in the event of no deal?

Stephen Barclay: As I say, I refer to CDL as to what the latest position is with Canada. I know that when you and I debated this at a previous hearing, Canada was one of the ones outstanding. We had done, as I say, the leading ones, such as Switzerland. As to where that is, there is an interplay in terms of the temporary tariff regime, which is up to 12 months.

Q117 Seema Malhotra: Forgive me, Secretary of State, but you have just told us that you have been involved in preparing for no deal. You have sought



HOUSE OF COMMONS

to reassure the country that things will be okay in the event of no deal, and I am struggling to get an even basic response or clear response on this. There are businesses in my constituency, which I have raised to you before—

Stephen Barclay: With respect, I said the exact opposite.

Q118 **Seema Malhotra:** One business may trade with many countries through several of these EU trade agreements. What exactly is in place, should there be no deal, for businesses in your constituency or in my constituency, trading under many of these trade agreements? What will happen to those businesses?

Stephen Barclay: With respect, I said the exact opposite of that, which is that my focus has been on the negotiations, which is why CDL has been leading this, in terms of trade continuity as part of his contingency planning, working with Liz Truss in terms of the DIT. They will have the latest position. I am very happy to write to you on that. As I say, when I was looking at it, which is quite a few months ago, we had made considerable progress with areas like Switzerland, which represented a fifth by value. We had also put in place a whole load of other ones. Canada was one of the ones at that point on which there had been some issues, but it would be for CDL, and I will ask CDL to write to you with an update.

Q119 **Seema Malhotra:** Could I ask what the message from business has been in relation to the rolling over of EU trade agreements and whether there has been any feedback to you?

Stephen Barclay: Yes, there has. The feedback from business is for us to get a deal.

Q120 **Seema Malhotra:** No, on the EU trade agreements. You and I can both say it is to get a deal. It goes without saying that everybody would want a deal and a good deal et cetera, but in terms of the Government's policy around transitioning trade agreements and whether that is done in their entirety, which does not seem to be the Government's intention from the Government's own updated guidance, what has been the feedback from business?

Stephen Barclay: As I say, we have made good progress in ensuring we roll over the trade agreements in a no-deal scenario with third countries. The EU is obviously the most significant trade deal. The best way of doing that is through a deal. That is what I have been focused on. You raise quite properly the issue in terms of Canada specifically and we are working closely with Canada to mitigate any impact, but I will ask CDL to give you a specific update in respect of Canada.

Q121 **Joanna Cherry:** Good morning, Secretary of State. Can we just go back to the court case in which I and others were involved in Scotland, and to the undertakings that you outlined earlier? The Prime Minister has undertaken three things: to comply with his obligations under the Act; to



HOUSE OF COMMONS

request an extension if Parliament does not approve a deal or agree to a no-deal by Saturday; and not to seek to frustrate the purpose of the Act. That is correct, is it not?

Stephen Barclay: You are a more senior lawyer than I am and the Prime Minister will have given the undertakings to which I am sure you refer.

Q122 **Joanna Cherry:** I am just reading from the judgment, which I am sure you have read, and the undertakings include not seeking to frustrate the purpose of the Act. That is correct, is it not?

Stephen Barclay: It is.

Q123 **Joanna Cherry:** The judge also said that if the Prime Minister or the Government went back on the assurances given to the Court, this would be “destructive of one of the core principles of constitutional propriety and of the mutual trust that is the bedrock of the relationship between the court and the Crown”. Do you agree with that statement?

Stephen Barclay: You are reading out, I assume, something from the Court, are you?

Q124 **Joanna Cherry:** I am asking you whether you agree with the highest Court in Scotland that if the Prime Minister or the Government went back on the undertakings you have described, that would be “destructive of one of the core principles of constitutional propriety and of the mutual trust that is the bedrock of the relationship between the court and the Crown”.

Stephen Barclay: I would expect Government to stand by undertakings they are given by the Court, and the Prime Minister has been very clear at all stages that we will abide by the law.

Q125 **Joanna Cherry:** You agree with that statement, then?

Stephen Barclay: I agree that we will always abide by the law, by the ministerial code and by undertakings that have been given to the Court.

Q126 **Joanna Cherry:** As a lawyer, you will know what frustrating the purpose of the Act means.

Stephen Barclay: I would always defer to the Attorney General. I am extremely out of date in my legal analysis as to precise definitions, but the underlying principle to which you refer will be there.

Q127 **Joanna Cherry:** There have been various media reports, and one of your fellow Ministers, Andrea Leadsom, has been on television saying that there was an intention to send a letter seeking an extension in terms of the Benn Act, and to then send another letter saying, “That is not really what we want. We want something else.” I am sure the Attorney General will have advised you that to do that would be to frustrate the purpose of the Act and, therefore, to breach the undertakings given to the Court. That is right, is it not?



HOUSE OF COMMONS

Stephen Barclay: Again, it is not for me to spell out what the Attorney has or has not said, but you know the Attorney well. You have praised his integrity in the Chamber, quite properly.

Q128 **Joanna Cherry:** I am not asking about the Attorney General's advice. I am asking whether you agree that for the Prime Minister to send a second letter undermining the terms of the first letter would be to frustrate the purpose of the Act. Do you agree with that?

Stephen Barclay: It is not right and proper for me, in an evidence session of this Committee, to get into detailed analysis of the law, interpretations, definitions and otherwise. What I am very clear on, as a member of the Government, is that it is my duty to abide by the law, that we will do so and the Prime Minister will stand by the commitments he has given to the Court.

Q129 **Joanna Cherry:** Is there a plan to send two letters?

Stephen Barclay: I am not aware of any such plan.

Q130 **Joanna Cherry:** If no agreement is reached in the next couple of days, will the Prime Minister put to Parliament, on or before Saturday, the option of leaving without a deal?

Stephen Barclay: Again, as I said at the very outset when the Chair probed on these important matters, in terms of what is and is not put to the House, the proper manner in which that is done is through the Leader of the House, and there will be an opportunity for him to do so tomorrow.

Q131 **Joanna Cherry:** According to the DExEU website, your responsibilities include working closely with the United Kingdom's devolved Administrations. We know there has been much discussion about Northern Ireland, but there is not a devolved Administration in Northern Ireland just now. There are devolved Administrations in Edinburgh and Cardiff. Can you tell us what liaison you have had with the UK's devolved Administrations about the progress of negotiations this week?

Stephen Barclay: I have not spoken to Jeremy or to Mike this week. One of the Ministers within DExEU went up to Edinburgh to meet with the Scottish Government and the Welsh Government last Thursday, as part of his engagement on my behalf. That was because, from memory, I was travelling in Europe that day. In fact, I was travelling over to Brussels for the meeting with Michel Barnier on the Friday. Otherwise, originally it had been in my diary for me to attend, but because of the meeting with Michel Barnier, another Minister went on my behalf. Also attending that meeting was the Chancellor of the Duchy of Lancaster, again ensuring that there was Cabinet engagement with the devolved administrations.

Q132 **Joanna Cherry:** That was a meeting last week?

Stephen Barclay: That was on Thursday.

Q133 **Joanna Cherry:** Am I to understand that there has been no liaison by



HOUSE OF COMMONS

your Department, or indeed by the Government, with either the Welsh or the Scottish Administration this week about the progress of the negotiations?

Stephen Barclay: I would have to check with the ministerial team. As I say, I have been travelling a lot over the last couple of days. As to where the engagement is, there is a lot of engagement also done at official level, and one of the things I did, following a previous session at this Committee, was to change the guidance for officials within my own Department on their engagement with the devolved Administrations to increase the level of official engagement.

Q134 **Joanna Cherry:** I am not talking about official engagement. Forgive me; we are short on time. I am talking about ministerial engagement, because we have seen the Democratic Unionist party and the ERG going in and out of Downing Street this week, being kept apprised of how things are progressing. I would like to know whether you are able to tell us whether there has been any ministerial engagement with my colleagues in either the Scottish Government or the Welsh Government about the progress of these negotiations this week, because the public can see that the DUP and the ERG are being kept closely advised, but so far as I am aware, the Scottish Government and the Welsh Government, democratically elected by the people of Scotland and Wales, are out of the loop.

I realise you have been back and forth to Luxembourg, but I think you would agree with me that it would be quite a serious matter if the DUP and the ERG were in the loop, but the Scottish and the Welsh Governments were not. If you are not able to answer today and give me that comfort, could you possibly write a letter to the Chair of the Committee to confirm whether or not the Welsh and Scottish Governments were in the loop?

Stephen Barclay: I am very happy to. I know that I was due to have had a call with Jeremy and Mike on Saturday that unfortunately had to be postponed, but within the last week Ministers within DExEU, the Chancellor of the Duchy of Lancaster and others travelled up to Edinburgh as part of our engagement. When you have Ministers going up to Edinburgh within the last week as part of our engagement, it is slightly—

Q135 **Joanna Cherry:** Secretary of State, yesterday and the day before, the DUP and the ERG were in and out of 10 Downing Street. I am not talking about last week. We all know things have moved quite fast this week. It has been a bit like a yo-yo right enough, but you are being very clear that there have been important developments this week, so I am not really interested in what happened last week. I am not interested in the fact that a very junior Minister phoned the Scottish Government at the last minute on Monday morning to say what was in the Queen's Speech. What I want to know is what engagement there has been with the Scottish and Welsh Governments about the progress of the negotiations



HOUSE OF COMMONS

this week. It is my suspicion that there has been none, and I would like you to put my mind at rest that there has been some. I accept that you have been travelling backwards and forwards. You may not be able to answer that question, but it would be good if you answered it at a later date, because voters in Scotland and Wales would be keen to know that their Governments had been kept apprised of what was going on in terms of your Department's responsibilities.

Stephen Barclay: I am very happy to write to you with an update, but, as I say, one of the things also that we have been doing as part of the increased engagement with both the Scottish and Welsh Governments is changing the way that officials engage, in order to facilitate much more transparency in terms of information.

Q136 **Joanna Cherry:** It seems that the DUP and the ERG have access to the Prime Minister. You are suggesting that really all you can give me by way of comfort is official-to-official contact. What I am interested in is whether you or your Department have been in contact with the democratically elected Governments of Scotland and Wales, Minister to Minister.

Stephen Barclay: I know we have within the last week, including, as I say, the Minister of State in the Department travelling up to Edinburgh to engage with Scottish Ministers. In terms of XO, the Scottish Government regularly attend those Cabinet Sub-Committee meetings as part of our no-deal preparation. In terms of precisely what conversations there have been in the context of the negotiations, I will ensure we get some clarity to you on that, but of course the Scottish Government have already pre-empted those negotiations by saying, as I understand it, that you will vote against any deal that we bring back in any event. While we are happy to engage, it seems whatever we say as part of that engagement will get the same result in terms of any vote in the House of Commons.

Joanna Cherry: As I say, I would be grateful if you wrote to confirm.

Chair: We look forward to receiving that letter.

Q137 **Joanna Cherry:** When will the Scottish Government see the detail of the withdrawal agreement and the political declaration?

Stephen Barclay: That is still, as I say, under intense negotiation at the moment and those discussions are ongoing.

Q138 **Richard Graham:** Secretary of State, I am just looking at the agreement on the withdrawal of the UK from the EU, which is a 565-page document, and in the Queen's Speech it is laid out that our top priority, effectively, is to implement the withdrawal agreement Bill, which is the withdrawal agreement plus a new protocol on Northern Ireland. The only part of this weighty document that is going to be changed is the protocol on Northern Ireland, as I understand it, and within the roughly 170 pages of the protocol on Northern Ireland, can you confirm to us which articles, like article 6 on the customs territory, are really the ones that are under negotiation?



HOUSE OF COMMONS

Stephen Barclay: I am afraid, with respect, Mr Graham, I cannot, in that it would not be appropriate to do so. We are having those negotiations, and to go through the different sections of the Northern Ireland protocol and start a discussion now when we are at a very sensitive moment in those discussions would not be the right time. I am sure all Members of the House want the negotiators to have the space to work effectively.

Q139 **Richard Graham:** I totally understand that. In a sense, the question is, if the negotiations are successfully concluded on Thursday and Friday, what sort of information would be provided to Members of the House in order for them to be informed before the vote on Saturday morning. Are you, for example, anticipating that a summary of the main changes to the Northern Ireland protocol could be published before the House sits?

Stephen Barclay: We did touch on this point before, and I am not going to get drawn on exactly what papers will and will not be shared. In terms of any sitting, that will be an issue for the Leader of the House in his statement tomorrow.

Q140 **Richard Graham:** The other aspect of these negotiations is the political declaration, which you have touched on. Is there any intention to publish any changes to that before any vote on a withdrawal agreement on Saturday?

Stephen Barclay: That relates to your previous question. What we are very clear on is we need to ensure that information is shared with Members of the House in order for them to proceed, but the key issue is to reach an agreement. That is what we are focused on and that is the key challenge ahead.

Q141 **Richard Graham:** Some people, particularly those who voted for the Benn Act, believe that the Benn Act has been helpful in trying to prevent no deal. Others of us believe that the risk involved in continuing to try to prevent no deal by extending our period of article 50 and, therefore, not reaching a conclusion on a deal risks precisely the opposite effect, and that, were this country to have to go to a general election in order to resolve the complete failure of this Parliament to determine how we leave the European Union, the next Parliament might take a very different view and might proceed direct to no deal. Do you think that that risk is a real one for those of us who wish to leave the European Union, but with the best possible deal?

Stephen Barclay: In terms of the views of colleagues on the legislation in the name of the Chair, I suspect what I say will not change their view on that, in that those who supported it in the first place will think it will have been helpful and those who did not will think it was not. By the way, as part of the negotiating team, I feel it has been extremely unhelpful in terms of negotiations, but colleagues across the House will have their own view.

Q142 **Richard Graham:** That, by the way, Secretary of State, is precisely the



HOUSE OF COMMONS

reason that some of us wish to make sure that the Chairman of this Committee provides evidence to the Committee, because that is an important issue that needs to be fleshed out.

Stephen Barclay: That is a matter for the Committee and, I am sure the Chair will appreciate, not for me. That is a Committee matter to resolve. In terms of the wider point you raise, Mr Graham, the delay leads to a worse outcome for those of us who want to ensure that the UK leaves in a smooth and orderly way and that is why we are at such a pivotal moment now, because the time is right for a deal. The time is now for us to come together. It is very much in the interests of both sides to do so. There is a recognition on both sides that that is the best way forward and in part, for reasons we have heard from members of the Committee, in order that we can then get on to the future relationship and the very strong bilateral relationships that we have with member states.

Probably above all, which I have felt very strongly when I have been in capitals and spoken to UK citizens there, a smooth and orderly deal enables us also to safeguard the citizens' rights part of the withdrawal agreement, which is an issue I know many people feel extremely strongly about. That is also for EU citizens in the UK, who we hugely value. We are very grateful they have chosen to make their lives in the UK and, even though we have guaranteed their rights, the withdrawal agreement will send a very positive message to them. That is also for our UK nationals across Europe.

Q143 **Richard Graham:** There is no question but that for many of us the importance of resolving the issues for citizens is a crucial goal. Secretary of State, were you surprised by the comments made by the European Parliament's President, David Sassoli, after meeting the Prime Minister on 8 October? He said specifically to reporters afterwards that if the UK Government's latest proposals are all that is on offer, then the UK Prime Minister does not want an agreement. What did you make of that?

Stephen Barclay: There is recognition across Europe that the Prime Minister wants a deal. That has been reflected in the very constructive tone taken by EU leaders, who have themselves said they can see a pathway to a deal and that they are keen to see the UK leave in a smooth and orderly way. There is a very constructive spirit, both on the EU side and on the UK side, and we are very keen to move forward on that basis.

Q144 **Jeremy Lefroy:** I would just like to turn, first of all, to the political declaration. I was with a number of trade union representatives yesterday from a UK business that accounts for, by some estimates, 2% of the entire GDP of the country, and they clearly were absolutely really concerned about the possibility of no deal, but they were also concerned about what might be in this political declaration as against the former Prime Minister's political declaration, which they had been largely content with, which is one reason I supported it and you supported it.

What, in general terms, could I say to such trade union representatives



HOUSE OF COMMONS

that might be comforting about the political declaration and the future process of negotiations once, as I very much hope, we achieve a withdrawal agreement?

Stephen Barclay: You reflect a very serious concern. It is one they have raised with me. When I met with Frances O'Grady or Len McCluskey in the past, they were very clear on the importance of these issues. We discussed it also as part of the talks between the previous Government and the Labour Front Bench at that time. If you look at the Queen's Speech, Mr Lefroy, you will see a Government committed to very high standards in ways that I have previously referenced.

The UK has always been a world leader in many of its standards and if one looks at the post-Brexit economy the UK is seeking to achieve, it is one of high productivity and high skill. The fact is that, when the UK leaves the EU, none of the top 10 universities in Europe will be within the EU. Eight will be in the UK and two will be in Switzerland. The sort of economy that we are seeking to build is one of good regulatory standards, but it comes to the point that Mr McFadden raised, which is what matters is the outcome rather than saying one has to necessarily be in lockstep in approach on regulation. That is part of a discussion to be had. Clearly, level playing field is shaped by the future relationship, and that is part of that discussion that will be had in due course.

Q145 Jeremy Lefroy: You have frequently referred to a best-in-class free trade deal. By my calculation, if we have an agreement and leave with an agreement at the end of this month or shortly thereafter, there will be between 12 and 14 months until the end of 2020, which is the end of the initial transition period, to negotiate such a thing. Do you see the possibility of that happening? I know you are likely to say we are already in conformity in so many areas, but given the complexity and given the need to get something in excess of 30 different Parliaments to agree to such a free trade deal, do you think that that is possible?

Stephen Barclay: There is a separate question around ratification, but in terms of the wider point around whether I think the future agreement can be done within what is now a slightly reduced implementation period, I do, first and foremost because, as you reference, we start from a position of regulatory alignment. If you look at the traditional trade deals, a huge amount of the front-end time is taken in terms of understanding the respective positions in terms of the different economies, so we start from a very advantageous position.

There is a much bigger debate around this, but to give just one example, logistically, teams can move much quicker, because of the geographic distances. If you are flying from North America and you bring your teams over, usually you work on six-week cycles, whereas in these trade talks we will be able to move much quicker, partly because of geography and partly because of where we start from.



HOUSE OF COMMONS

There are opportunities there. Another reason we can move more quickly is because we have a framework through the political declaration, which is why the political declaration is important, albeit I respect the fact that some colleagues feel otherwise. The political declaration is important in terms of setting that framework. I do believe we can do that within the timescale, and that will absolutely be the Government's commitment.

Q146 Jeremy Lefroy: Could those negotiations give rise to a number of agreements? I am not just talking about a trade agreement and then a security agreement and perhaps three or four more. Even within trade, there could be a number of agreements whereby perhaps the easier areas were dealt with very quickly, so that the whole package was not complicated by having some rather difficult areas, which may apply to perhaps a fairly small part of the economy, holding up matters.

Stephen Barclay: If I look at the level of debate that is still ongoing, around the sequencing of the first phase and whether simply dealing with the winding-down arrangements separately from the future trade agreement has contributed to some of the difficulties the previous Prime Minister had in respect of the backstop, you will forgive me for not, at this point, getting into a big debate on how we will structure that.

Within your question, inherently, there will be certain things that sit outside, not least on the security side, which does not sit within the normal arrangements. There will be some discussions alongside where there is common interest separate from what is normally within the bones of a standard free trade agreement.

Q147 Jeremy Lefroy: Do you expect, within the withdrawal agreement, the condition or opportunity to have an extension of an implementation period, if necessary, to conclude the negotiations will remain?

Stephen Barclay: The Prime Minister's position on this is very clear: we are committed to concluding that by the December 2020 deadline.

Q148 Jeremy Lefroy: You are, and he is convinced that it can be done by then?

Stephen Barclay: Yes, we are.

Q149 Jeremy Lefroy: That includes all aspects, including security?

Stephen Barclay: We are committed to that timetable and to moving at pace with colleagues in Europe to deliver on it.

Q150 Sammy Wilson: Could I take you back to where we were at the very start and the whole issue of the consent of the Northern Ireland Assembly? I am sure it was not the full range of reasons, but one of the reasons you gave was that, if the deal were to get through Parliament, it would require the support of the DUP, and we have made it clear that consent is an important issue. Is the real issue here not the Belfast agreement? This Committee has been almost hysterical in its defence of the Belfast agreement. This is a controversial issue. It will lead to the



HOUSE OF COMMONS

change of the powers of the Northern Ireland Assembly, and therefore it falls under the terms of the Belfast agreement, whereby there has to be cross-community consent for any change of that nature, especially if there is to be giving over of regulatory powers to the EU on a limited range of issues. Given all that, can we avoid the issue of the consent of the Assembly without tearing up that very important part of the Belfast agreement? That is not just against the spirit of the agreement; it is explicitly against the terms of the agreement.

Stephen Barclay: Mr Wilson, what I would do is refer back to the letter that the Prime Minister set out on 19 August. In setting out to President Tusk his reasons for seeking changes to the backstop, central to that was his third point. He said that it was increasingly clear that a backstop risks weakening the delicate balance embodied in the Belfast/Good Friday agreement, which speaks to the point that you raise. Within that, he then went on to add in his letter of 2 October his fourth point, which was that the regulatory zone he was proposing must depend on the consent of those affected. Again, that speaks to the point.

As I am sure you will be aware, we are in ongoing negotiations in respect of this agreement. You would not expect me, I am sure, to go into the detail of that in a forum such as this. However, the Prime Minister has communicated through his letter on 19 August and on 2 October his recognition that safeguarding the Belfast/Good Friday agreement was central to the proposals the Government were putting forward and that any proposal around a regulatory zone needed to be linked to the principle of consent.

Q151 **Sammy Wilson:** I would not expect you to get into the details of the negotiations, but what I would like to hear from you is a confirmation that the terms that are set out in the Belfast agreement for consent for a controversial issue or an issue that requires a change in the powers of the Assembly or requires legislation would be the method by which this consent would be sought. That would not be, as the Irish Government has said, simply by a majority vote but by a cross-community vote, which is essentially a part of the terms of the Belfast agreement.

Stephen Barclay: The Prime Minister has at all stages, including in the letter to which I referred, Mr Wilson, underscored that proposals are centred on our commitment to solutions that are compatible with the Belfast/Good Friday agreement. He set that out in his letter.

It is then an issue for the negotiating teams in terms of how the proposal put forward by the Prime Minister is then taken forward, but he has at all stages underscored his commitment to the Belfast/Good Friday agreement.

Q152 **Sammy Wilson:** Minister, with respect, it is not an issue for the negotiating teams to decide how that is taken forward, not if it is explicit in what we are told, time and again in this Committee, that this is an internationally binding agreement, which in very clear, explicit and



HOUSE OF COMMONS

detailed terms sets out how cross-community support has to be measured in the Assembly.

All I really want to hear from you today is that the terms of the Belfast agreement, which everybody seems to want to defend, will be the terms on which consent is sought for opting into arrangements that diminish the powers of the Northern Ireland Assembly, which will treat Northern Ireland differently to a certain extent from the rest of the United Kingdom. I want to hear that consent will be sought on the basis of the agreement.

Stephen Barclay: As I have underscored, the best reference back is to what the Prime Minister himself wrote. What the Prime Minister himself wrote was about our commitment to find solutions that are compatible with the Belfast/Good Friday agreement. The Prime Minister has been very consistent on that. That is part of what was set out on 2 October, and that very much frames the approach that he takes.

Q153 Sammy Wilson: Having served in the Northern Ireland Assembly, I know that, when it came to decisions of the Executive, there had to be agreement by a majority of Unionists and nationalists for any legislation to go forward, and then there had to be a vote in the Assembly, which included the support of Unionists and nationalists. Even if a majority of people voted in favour of something, if there was not a majority of Unionists and nationalists, it could not go through. It is important that that is understood as the mechanism.

I want to take you to a second issue. I know you do not want to talk about the details of the negotiations, but one thing that is quite apparent—because the Irish Government has been leaking it very extensively—is that one of the sticking points is whether or not there has to be some customs element to any agreement. Yesterday, we had evidence given to us by Dr Birnie, who indicated that the kinds of solution that were being sought here—for example, for goods moving into Northern Ireland, until their final destination was known, European duties would be imposed on them—could lead to additional costs for Northern Ireland businesses of up to £500 million. There will also be all the administrative checks that will be required to trace those goods and give assurances that they did not go into the European Union or whatever.

First, I hope the Government are not contemplating that. Secondly, what assessment have the Government made of any such arrangements, which would require tariffs to be paid and then rebated to businesses in Northern Ireland? What assessment have they made of the impact that would have, first on red tape and, secondly, on costs to Northern Ireland businesses?

Stephen Barclay: Any impact flows from the arrangements that are put in place. Obviously, those arrangements are determined and shaped by, first, the negotiation that is very much ongoing and, secondly, by whether the House then approves that moving forward.



HOUSE OF COMMONS

As you say, Mr Wilson, one of the things the Prime Minister has been very keen to do is to understand the various interests and concerns that people have. That is why he has been engaging widely as part of that process, and these are issues that are subject to live discussions at the moment. It would not be appropriate to get into them today.

Q154 Sammy Wilson: One of the suggestions being made is that, if there are additional costs, Northern Ireland businesses could be compensated for those costs. If we sign up to abide by some EU regulations, state aid rules would apply and support could not be given to businesses that were caught with those additional costs.

Stephen Barclay: Again, we are getting into areas of complexity, but part of the package, Mr Wilson, that the Prime Minister has set out in terms of the new deal for Northern Ireland is a recognition of a wider point here. He spoke specifically on this at his party conference speech. He talked about his desire to level up the United Kingdom as a whole. Part of the proposal within what he set out to the Commission in terms of a new deal for Northern Ireland was a recognition, as part of that levelling-up, that there are areas within Northern Ireland, as there are elsewhere in the United Kingdom, where there is a need to level up. That is also part of the wider package that is under consideration.

Q155 Sammy Wilson: Do you accept that, if additional costs were imposed as a result of either different administrative arrangements or different customs arrangements, that would actually make that levelling-up much more difficult than it is at present, especially if EU state aid rules were to apply to Northern Ireland?

Stephen Barclay: These things need to be looked at in the round. As I say, part of the reason within the package to have the commitment on a new deal is a recognition, as the Prime Minister set out in his party conference speech, of the need to level those up. The wider message, which certainly I take from my engagement and also the Secretary of State for Northern Ireland takes from his engagement, is, again, the desire to ensure we leave in a smooth and orderly way, because that is the way of best addressing the concerns that have been raised.

Q156 Sammy Wilson: I just have one last question. In terms of what has been proposed, or at least what the Irish Government and the EU have said in public about the different arrangements for Northern Ireland, what assessments have the Government made of what will be required, if the demands of the EU and the Irish were to be acceded to, to facilitate the checks on goods between GB and Northern Ireland?

Stephen Barclay: The absolute priority that we have is to ensure that Northern Ireland will be fully part of the UK customs territory. In terms of the negotiations and how that commitment is then taken forward, obviously one has to have clarity on what those arrangements are before one can start to assess and do any impact assessments or address what mitigation is required. We need to give the negotiators space. I am sure



HOUSE OF COMMONS

you would recognise that. These issues will come back to the House for consideration, but we need to ensure that the negotiators are able to proceed.

Q157 Sammy Wilson: By Saturday, will we have clarity on exactly the kind of infrastructure that would have to be put in place if such an agreement were reached, so that people voting on this will be voting on it with total knowledge of the kinds of impediment that might be placed on trade between GB and Northern Ireland?

Stephen Barclay: The first order of business is to see whether we can secure a deal with the EU. That is what, Mr Wilson, we are absolutely focused on delivering within Government. Once we have that clarity, clearly there will be an urgent need to bring that matter back to the House and to get into these very important issues that you raise.

Q158 Chair: On that last point that Sammy Wilson raised: is it the Government's policy that it would not accept customs checks in the Irish Sea? I mean the Government's policy; I am not asking about what is going on in the negotiations. Is it the Government's policy that it is opposed to customs checks in the Irish Sea?

Stephen Barclay: Again, what we have said throughout is that it is essential that Northern Ireland is part of the United Kingdom customs territory, because that is a fundamental point in terms of UK sovereignty and UK control of its trade policy. Again, once we start to get into the operational details of some of the arrangements, that is an issue that is part of the negotiations. Given the sensitivity of the point at which we are, colleagues will understand that it is better that we come back to the House and discuss these issues once there is further clarity.

Q159 Stephen Kinnock: Many thanks for your patience, Secretary of State. I think we have actually overrun our time now, but I would like to test your patience a little further. I would like to build on what my colleague Mr McFadden was asking about in terms of the political declaration and the future relationship, specifically on this issue of regulatory divergence. Alongside Mr Gove, I believe, you received a letter from five key manufacturing industries: aerospace, automotive, chemicals, food and drink, and pharmaceuticals. All those industries are responsible for employing thousands and thousands of people in our constituencies, and no doubt in yours as well. They raised very serious concerns about regulatory divergence. They talked about the damage that would be done by the current approach on regulatory divergence. They said, "Pan-European regulatory alignment has been a success in our industries, supporting continued creation and retention of highly skilled manufacturing jobs in the UK. It is important this regulatory alignment should continue after Brexit as a critical element of the UK's future relationship with the EU".

Do you intend to respond to that letter? If so, could you give us a sense of what you will be saying in the response?



HOUSE OF COMMONS

Stephen Barclay: I very much recall the letter, in part because of the seniority of those who sent it. That letter is part of a very extensive amount of engagement we have been doing with the business community and others throughout this process. I am sure we will respond. It will be partly shaped by the negotiations, which are ongoing, in terms of how we move forward.

The wider point is that the best way of addressing the concerns—I know you have spoken very eloquently about this in the Chamber yourself—is that the implementation period gives business confidence through a deal moving forward. In terms of the wider political declaration and the timeframe of that, that is part of the negotiations we are having. The key issue from a UK point of view is the fact that we have world-leading standards. There is no intention to have some sort of race to the bottom or deregulatory approach, for the reasons I have set out. If one looks at the Queen's Speech, you see from the Prime Minister a very strong commitment to having high standards.

Q160 **Stephen Kinnock:** Clearly, this change in policy from the Government in terms of dropping the level playing field is about, as Mr Mackinlay referred to earlier, being prepared to do deals with other bits of the world. The concern that these absolutely key manufacturing industries are raising is that, by engaging in that strategy, you will by definition be opening the risk, in the Europeans' eyes, of social dumping, environmental dumping and creating what Angela Merkel called, in her speech in Paris, a Singapore-on-Thames right on the other side of the Channel.

Surely you agree that the EU will then be inevitably bound to raise non-tariff barriers to ensure it is protecting its market and its standards. You have said that the outcome is shaped by the inputs, but if the inputs are bound to lead to a minimisation of access for these key products and these key industries into that key market on the other side of the Channel, you surely recognise that that could potentially do serious damage to the British manufacturing industries.

Stephen Barclay: Mr Kinnock, there is probably more common ground in our positions than the debate might suggest. If I am understanding your question correctly, you are alluding to the fact that there is an interplay between market access and what commitments are made.

Q161 **Stephen Kinnock:** Alignment, yes.

Stephen Barclay: I absolutely recognise that. When I spoke about legitimate EU equities, obviously one of the issues they will have is that, on the one hand, they want access to the UK market. It is an important market. In terms of the size of the EU market, in any trade deal, including within the CETA trade deal, there is always language on this point around the trade-off between what commitments are given and what market access you undertake.



That is why I reference back to a slide I am sure you are very familiar with, the famous staircase or escalator slide, where the Commission themselves made a similar point. If I am understanding correctly, you are not disagreeing that there is this interplay. Part of the negotiation will be to have discussions of this very order.

Q162 Stephen Kinnock: If I could just bring it back to the question of the parliamentary arithmetic, to which Mr Djanogly referred, you must surely see and understand that when Labour Members of Parliament see a letter like that from the aerospace, automotive, chemicals, food and drink, and pharmaceuticals industries, major employers in our constituencies, it rings very large alarm bells with us. I do not really understand why the Government chose to put in the line that Mr McFadden referred to earlier explicitly saying that there is no need for the extensive level playing field arrangements envisaged in the previous protocol, because that is clearly what triggered this letter and these concerns.

Given the parliamentary arithmetic and given the serious concerns raised in this letter, can you please explain what the thinking was that underpinned putting that sentence in?

Stephen Barclay: The thinking is because the Government was able to be more explicit than the previous Government in terms of the future relationship. In fact, one of the criticisms I received on behalf of the previous Government was that the political declaration was too wide in scope. You will be familiar, in terms of your own conversations with EU interlocutors, that they previously questioned whether the UK had been specific enough in terms of what future relationship it was seeking. That is a question the Prime Minister has answered. Therefore, the line to which you referred is a reflection of that.

Moving forward, I am very aware of the parliamentary arithmetic. I am very happy to reach out and to have further conversations away from the Committee with colleagues on all sides of the House on these issues. In terms of the third meaningful vote, which failed to carry the House, that was separate from many of these issues. At the same time, I do recognise that these are important issues for Members across the House, and I am very happy to have further discussions with them as part of that.

Q163 Stephen Kinnock: I have one final point. On the political declaration, I accept it is going to be a moveable feast to some extent during the transition period, and the Government will need to agree a negotiating mandate with the European Union and you move forward through the various stages. The reality is that when we go through those Division Lobbies to vote we are voting on the withdrawal agreement and the political declaration. The political declaration is a vitally important and politically binding statement of intent.

While I would love to dream that we will have Labour Governments for the next 100 years, the chances of that, I am sure everyone would agree,



are fairly slim. We are voting in light of the possibility that there may not be a Labour Government negotiating turning the political declaration into an international treaty that will define the future relationship between the European Union and the United Kingdom for generations to come, potentially. When we go through those Division Lobbies, we are doing so on the basis of an understanding that this is a binding political declaration that transcends party politics. Would you agree that that is a fair interpretation of what we will be voting for?

Stephen Barclay: I would very much agree, Mr Kinnock, that the withdrawal agreement and the political declaration are part of a package. Where I slightly disagree, if I may say so, is that previously a huge amount of work was done to try to address concerns across the House, yet even on the third meaningful vote, when it was purely on the withdrawal agreement and not linked to the political declaration, the arguments to which you have just referred at that time were not persuasive to many colleagues across the House.

The key issue is that I am very happy to have further conversations with Members on all sides, but clearly it will be shaped by the future negotiation. In order for us to get into that, we need to be able to pass the withdrawal agreement.

Q164 **Stephen Kinnock:** I have one very final point. I see the point you are making around having no political declaration whatever. In effect, the third meaningful vote was just the withdrawal agreement and no political declaration. However, in a sense, that makes you even more of a hostage to fortune. You have no statement of intent whatever then, but you do have lines like this in the letter that was sent saying, "We are going to drop all the level playing field arrangements." I would gently suggest that it is better for the Government to come forward with a clear statement of what they intend in terms of the future relationship, because then we at least know what we are doing and people know what they are voting for or against in that circumstance.

Stephen Barclay: Sure, okay.

Chair: Secretary of State, that is it. For the record, from the Chair, can I just say that no member of this Committee is biased? We just happen to have different views, and everyone is entitled to their view, including yourself. We are very grateful to you for coming this morning. I will just end by saying, "May there be light at the end of everyone's tunnel."